

Social Security (Long-Term Residential Care) Amendment Bill

28 November 2003

Attorney-General

LEGAL ADVICE:

SOCIAL SECURITY (LONG-TERM RESIDENTIAL CARE) AMENDMENT BILL: COMPLIANCE WITH NEW ZEALAND BILL OF RIGHTS ACT 1990

1. We have considered the Social Security (Long-term Residential Care) Bill (the "Bill"), PCO 4762/11 for consistency with the New Zealand Bill of Rights Act 1990 (the "Bill of Rights Act"). We understand that this Bill is to be considered by the Cabinet Legislation Committee at its meeting on Thursday 4 December 2003.
2. The Bill raises prima facie issues of inconsistency with section 19(1) of the Bill of Rights Act on the grounds of age, sexual orientation, family status and marital status.
3. We consider that although the prima facie inconsistencies with section 19(1) of the Bill of Rights Act on the grounds of age, marital status and family status appear to be justifiable in terms of section 5 of the Bill of Rights Act, the prima facie inconsistency with section 19(1) on the grounds of sexual orientation is not justifiable. The Bill is therefore inconsistent with section 19(1) of the Bill of Rights Act.
4. We recommend that you bring the Bill to the attention of the House of Representatives, as soon as practicable pursuant to section 7 of the Bill of Rights Act. A draft section 7 report will be prepared for your consideration.
5. We have consulted with the Crown Law Office on this advice. Crown Law broadly agrees with the conclusions we have reached. We have also consulted with the Ministry of Health on the justifications for these issues.

Overview of the Bill

6. The Bill amends the Social Security Act 1964 (the principal Act) by making a number of significant changes to the income and asset testing regime that applies to older people in long-term residential care and who have been assessed as requiring that care indefinitely.
7. The principal Act currently provides that persons who are assessed as needing long-term residential care and who are:
 - unmarried persons aged between 50 and 64 years who have no dependent children and are "close in interest" to people aged 65 years and over; or

- those persons aged 65 years and over,

must pay for their own care. However, if their assets meet or fall below the statutory thresholds in Schedule 27, public funding is given via the residential care subsidy from the Crown. Public funding by via the subsidy is subject to an asset and income test.

8. Those persons who apply for a means assessment and have assets over:

- \$15,000 for a single or widowed person in care
- \$30,000 for a couple where both are in care
- \$45,000 for a couple where one partner is in care (the house and car of the other partner are exempt from this calculation of assets)

are required to fully pay for their care from their assets. Persons whose assets fall equal to or under this threshold are subsidised and means tested as to their income only.

9. The Ministry of Health explained the general rationale for means testing this way:

"Payment for on-going care has historically been seen as an individual responsibility. The objective of the policy is to provide support where people are unable to meet all, or part of the cost of their care. The general principle is that people pay for their care, but public funding is available as an absolute safety net where they cannot afford to do so.

...Public funding for long-term residential care is targeted, based on an assessment of who can be expected to pay (and what resources, based on evidence of means, different categories of people can be expected to contribute). Older people are assumed to have had more time to gather resources."

10. The asset-testing policy has had to date two objectives. Firstly it is designed to provide the greatest measure of support to those with the least ability to pay for their care. The policy is also aimed at providing the appropriate financial incentives for ensuring that persons are cared for in the community to the greatest extent possible. Although persons with particular needs can access specialised residential care, they enter these institutions only when it is absolutely necessary. The Ministry of Health regards this as an important means of avoiding institutionalisation.

11. Although this Bill signals a significant change in policy direction by progressively removing asset testing from the means testing regime, the emphasis on individual responsibility is recognised through the retention of means testing as to income.

12. The Government's primary aim is to minimise the extent to which persons in long-term care are required to use their assets to pay for their care. The policy has significant costs and, in order to be sustainable, is being implemented

progressively. The cost of the policy in its first full year is estimated to be \$112m. By 2030/31 the cost is estimated to rise to \$641m.

13. The changes are being implemented in two stages. There is a brief transitional stage between the time the Bill comes into force and 30 June 2005. Within this period a slightly modified version of the current arrangements will apply. The new regime, which will take effect from 1 July 2005, will provide immediate relief for the group of persons assessed as needing long-term residential care who are unmarried, aged between 50 and 64 years and have no dependant children. Persons assessed as needing long-term residential care who are 65 years and over will benefit as the asset thresholds are increased over time.
14. The first group of affected persons are those assessed as needing long-term residential care who are unmarried, aged between 50 and 64 years, have no dependent children and are "close in interest" to people aged 65 years and over. Only a small group of residents in long-term residential care currently fall within these criteria. Persons who qualify for a residential care subsidy under this criterion will continue to be subject to a means test as to assets under the provisions of this Bill from the time it comes into force until 1 July 2005. From 1 July 2005 [\[1\]](#)all persons who fall within this group of eligible persons will no longer be means tested as to assets. However, they will continue to be means tested as to income.
15. The second and by far the largest group of persons who are eligible to receive a residential care subsidy and who are affected by the current means testing as to assets regime are those persons who are aged 65 years and over who are needs assessed as requiring long-term residential care. During the brief transitional phase to 30 June 2005, the current rules will apply. The Bill thereafter increases the threshold rates for assets for single persons, widowers and widows and those couples where both are in care to \$150,000 and for couples where only one partner is in care to \$55,000 (not including cars and houses). The Bill also progressively increases by \$10,000 each year the value of assets that affected persons may retain before being required to use their assets to pay for the cost of long-term residential care. It is expected that over time the numbers of persons subject to means testing as to assets will reduce each year until eventually no-one will be subject to the regime.
16. We note that the overall intention of the Bill is remedial. That is, it seeks to eliminate means testing as to assets for all those eligible to pay for their long-term residential care. We consider that although the Bill makes distinctions based on age, marital status and family status that prima facie appear to give rise to issues of consistency with section 19(1) of the Bill of Rights Act on a short-term basis (in the case of the transitional changes) and, in the case of those 65 years and over, medium to long-term, these distinctions appear reasonable and are justifiable.
17. However, the provisions of the Bill that relate to couples do not apply to same sex relationships. In this respect, we consider that the Bill is inconsistent with section 19(1) because of the arbitrary way in manner in which it treats people

in same sex relationships. We note that this area of inconsistency across the social welfare system is to be addressed in the context of the legal recognition of same-sex relationships project.

18. In addition to removing the means testing as to assets regime, the Bill:
- a) Clarifies the obligations of persons receiving long-term residential care services to pay for those services, and the obligations of the funder to pay for specified services associated with long-term residential care;
 - b) Specifies the maximum contribution that people are required to pay towards the cost of specified care services, and provide for its annual adjustment;
 - c) Clearly explains the procedures associated with needs assessment;
 - d) Clarifies the content of, and the procedures associated with the means assessment; and
 - e) Excludes from the income test the earnings of the spouse of a person in care, and the first \$780 per person per year of income from assets.

SECTIONS 5 AND 19 OF THE BILL OF RIGHTS ACT

19. The Bill gives rise to *prima facie* issues of inconsistency with section 19(1) of the Bill of Rights Act. Section 19(1) provides:

"Everyone has the right to freedom from discrimination on the grounds of discrimination in the Human Rights Act 1993."

20. In assessing whether discrimination under section 19 exists, we consider that the key questions are:

- i. Does the legislation draw a distinction based on one of the prohibited grounds of discrimination, and if so
- ii. Does the distinction involve disadvantage to one or more classes of individuals?

21. If these questions are answered in the affirmative, we consider that the legislation gives rise to a *prima facie* issue of "discrimination" under section 19(1) of the Bill of Rights. Where a *prima facie* issue of discrimination arises, we consider whether the limit on section 19(1) of the Bill of Rights Act can be justified in terms of section 5 of the Bill of Rights Act.

22. Where this is the case we consider that a limit on a right can be justified where it meets a significant and important objective, and where there is a rational and proportionate connection between the limitation on the right and that objective. [\[2\]](#)

23. The Bill gives rise to *prima facie* grounds of discrimination in the following areas:

Use of the terms "unmarried" and "spouse"

24. We note that the Bill refers to persons as being "unmarried" (see new section 136 -definition of an "eligible person") or as to having a "spouse". We note that for the purposes of this Bill the term spouse applies to persons who are married or who are living together in the nature of a marriage but not to persons living in a same-sex relationship. Partners in same-sex relationships are therefore treated as being single. The terms "unmarried" and "spouse" draw distinctions on the grounds of:

- "Marital status" - section 21(1)(b) of the Human Rights Act, which includes being married or living in a relationship in the nature of a marriage; and
- "Sexual orientation" - section 21(1)(m) of the Human Rights Act, which means a heterosexual, homosexual, lesbian or bisexual orientation.

Responsibility for dependants/ nature of spousal relationship

25. The Bill also distinguishes between persons in some circumstances based on whether or not the person has responsibility for dependants or on the particular circumstances of the person's spouse. Both situations are included within the prohibited ground of discrimination of "family status". Family status includes:

- Having responsibility for care of children or other dependents (section 21(1)(l)(i) of the Human Rights Act); and
- Being married to, or being in a relationship in the nature of a marriage, with a particular person; (section 21(1)(l)(iii) of the Human Rights Act).

Age as a criterion for determining eligibility

26. The Bill uses a person's age as a criterion for determining whether that person should or should not be subject to means testing. The use of age as a proxy for determining eligibility gives rise to potential issues of discrimination on the grounds of age. Age is defined under the Human Rights Act to refer to "any age commencing with the age of 16 years" (section 21(1)(l)).

Transitional arrangements for asset testing

27. As we stated previously, the Bill proposes a relatively short transitional arrangement. This transitional arrangement comes into effect from the time the Bill comes into force until 1 July 2005 (new section 144). Under the terms of this transitional arrangement all those 65 years and over, and those aged between 50 and 64 years who have no spouse and no dependants and are assessed as needing long-term residential care must pay for the cost of services provided to them (new section 139). However, persons assessed as requiring long-term residential care may apply for a means assessment to determine their eligibility to receive a residential care subsidy from the Crown

(new section 145). A person who applies for a means assessment is assessed as to assets and income (new section 146). The means assessment will determine the maximum contribution that the resident is required to pay. The Crown will pay the balance between that contribution and the cost of care (new section 140).

28. The applicable asset thresholds [\[3\]](#) that apply during this period are set at the current levels of:

- For a resident assessed as requiring care who has no spouse - \$15,000
- For a resident assessed as requiring care who has a spouse who is not a resident assessed as requiring care - \$30,000
- For a resident assessed as requiring care who has a spouse who is not a resident assessed as requiring care - \$45,000.

29. The transitional provisions give rise to prima facie issues of inconsistency with section 19(1) of the Bill of Rights Act because the means testing regime will only apply to two groups of persons. Those aged 65 years and over comprise one group. The other group is comprised of those aged between 50 and 64 who are unmarried and have no dependant children.

30. Because the Bill draws distinctions based on a person's age, whether they are married or not, and whether they have dependants or not, the transitional provisions raise potential issues of discrimination based on age, marital status, family status, and sexual orientation. Sexual orientation arises because persons in same-sex relationships are unable to marry.

31. The different asset levels used for the purposes of means testing also give rise to prima facie issues of inconsistency with section 19(1) on the grounds of marital status, family status and sexual orientation. This is because persons who are not married, or who are married but both partners are in care are only able to accumulate a limited amount of assets in comparison to those who are married with only one partner in care.

32. We have therefore gone on to consider whether the prima facie grounds of discrimination are justifiable for the purposes of section 5 of the Bill of Rights Act.

Family and marital status - eligibility to be means tested as to assets

33. The objective of the transitional arrangement is consistent with the overall purpose of the means testing regime. That is, there is an expectation that individuals take responsibility for meeting the cost of their on-going care to the extent that they are able. The State will provide support in cases where persons are unable to provide for their own care. In this way the State is able to target its resources at those who require assistance. This is considered to be a significant and important objective.

34. We consider that the difference in treatment between those persons aged between 50 and 64 years who are unmarried and who have no dependants and those who are married or have dependants is rational and proportionate in the context of this Bill. Single people in this age group are likely to have fewer calls from their family on their resources, whereas persons with partners and dependants are likely to have on-going demands on their assets to meet the ordinary living needs of their family. Their exclusion from asset testing avoids undermining their ability to provide support to family members.
35. It should also be noted that the current asset testing regime takes account of personal circumstances in setting the threshold amounts, above which, a contribution from assets is required. Although the threshold levels are set at different amounts, on balance, we consider the differences are not unreasonable given general assumptions that could be made about the respective ability of those persons to make a contribution from their assets.
36. We also take into account that the transitional stage is a brief one, likely to be less than a year if the Bill is enacted in the second half of 2004. The arrangements will therefore apply for a short time only as a 'stepping stone' before the reforms take full effect on 1 July 2005. (We understand from the Ministry of Health that one reason for the 1 July 2005 start date is that it fits neatly into the annual budget cycle).
37. In particular, for the group aged between 50 and 64 years who are unmarried and who have no dependants the transitional arrangements under this Bill are a brief stage in the process prior to the complete removal of asset testing for this group of persons group after 1 July 2005.
38. We therefore consider that new section 143 does not appear to be inconsistent with section 19(1) of the Bill of Rights Act on the grounds of marital and family status.[\[4\]](#)

Asset testing after 1 July 2005

39. The Bill provides that from 1 July 2005 only those persons assessed as needing long-term residential care and who are aged 65 years and over will be subject to asset testing as well as income testing (new section 144).
40. This does not reflect a policy that persons over the age of 65 should be asset tested indefinitely. Instead it reflects a policy that seeks to incrementally remove asset testing altogether at an affordable rate. The Government has assessed that it is not feasible in financial terms to remove all asset testing immediately. The Bill therefore seeks to progressively remove the burden of asset testing for those who will still be subject to it. The Bill significantly increases the level of assets that may be retained before persons are required to contribute to their long-term residential care out of assets.

Age

41. Persons aged 65 years and over may argue they are disadvantaged because they will continue to be subject to an asset test that may require some of them to contribute to the cost of their care from their assets. Persons aged under 65 years will no longer be subject to the asset testing regime. We have therefore gone on to consider whether the limit on the right to be free from discrimination on the grounds of age can be justified in terms of section 5 of the Bill of Rights Act.
42. The objective of the Bill is to remove the burden of asset testing as quickly as resources permit. In order to meet this objective a scheme that provides for the progressive removal of asset testing to persons over 65 is proposed. We consider this is reasonable taking into account the following factors:
- i. Approximately 97% of those persons living in long-term residential care and potentially requiring state support are aged 65 years and over;
 - ii. It is not unreasonable to require a contribution to be made from a person's assets;
 - iii. Older persons, generally, are more likely to be able to contribute from assets because they have had a longer time to gather resources;
 - iv. The thresholds that determine a persons eligibility to pay for care from their assets have been significantly increased. For example the threshold for a person who is over 65 and single will increase from \$15,000 to \$150,000;
 - v. The number of persons aged between 50-64 who are advantaged by the immediate removal of asset testing in the first instance is relatively small;
 - vi. Those persons who are assessed as requiring long-term residential care under this Bill but who will not be means tested as to their assets will continue to be means tested as to their income (in other words they will still be required to contribute to their care in some form);
 - vii. The primary objective of the Bill is to phase out asset-testing for all persons living in long-term residential care;
 - viii. The phasing out of asset-testing is being progressed on a gradual basis because of the costs to the government of removing asset-testing; and
 - ix. The cost of removing asset-testing is expected to be \$112m in the first year of implementation and this is expected to rise to \$641m in 2030/31.
43. The Canadian Supreme Court [\[5\]](#) has also observed that in some circumstances using age as a proxy may be justified on the grounds that:
- "Perfect correspondence between a benefit programme and the actual needs and circumstances of the claimant group is not required to find that a*

challenged provision does not violate [section 19(1) of the Bill of Rights Act]...As Lacobucci J noted in Law [6]we should not demand "that legislation must always correspond perfectly with social reality in order to comply with [section 19(1) of the Bill of Rights Act]".

44. McLachlin CJ went on to add : [\[7\]](#)

"...we cannot infer disparity between the purpose and effect of the situation of those affected, from the mere failure of the government to prove that the assumptions upon which it proceeded were correct...This [the argument that assumptions require a rational basis] seems to place on the legislator the duty to verify all its assumptions empirically, even where these assumptions are reasonably grounded in everyday experience and common sense. With respect, this standard is too high...The legislator is entitled to proceed on informed general assumptions without running afoul of [section 19(1)] provided that these assumptions are not based on arbitrary and demeaning stereotypes."

45. Against this background, we do not consider that it is unreasonable to immediately remove asset testing for those 50-64 year olds affected, while implementing the progressive regime for the predominant group in receipt of care - those over 65.

46. We therefore consider that new section 139 and new section 145 do not appear to raise issues of consistency with section 19(1) of the Bill of Rights Act on the grounds of age.

Marital status

47. The Bill makes generic distinctions between single people and people who are married or living in an opposite sex relationship in the nature of a marriage for the purposes of setting asset testing thresholds, and calculating a persons assets against those thresholds. (It should be noted that the Bill treats as single, persons in a same-sex relationship who are living in a relationship in the nature of a marriage.)

48. Under sections 146 and 147 and Part 2 and 3 of Schedule 27, the assets and income of a person's spouse are taken into account in means testing the person receiving residential care. Similarly, the relevant asset thresholds during the transitional period and following 1 July 2005 differ in part depending on whether the person is single or in an opposite sex relationship.

49. This is consistent with the assumptions underlying the whole of the Social Security Act that spouses will pool resources, share expenses and be responsible for providing each other's basic needs. It acknowledges that in marriages and like relationships there is a degree of financial interdependence. We have previously advised that different treatment in the social security system of single persons and married persons based on those understandings is justifiable. We consider that the provisions in the Bill are likewise justified.

Family status

50. There are two remaining issues concerning family status that should be mentioned.

Asset testing thresholds

51. Schedule 27, Part 1 sets out two different rates for determining whether a person is required to contribute to their care from their assets. The first rate applies to:

- a resident assessed as requiring care who has no spouse; or whose spouse is also a resident assessed as requiring care.

The second rate applies to:

- a resident assessed as requiring care whose spouse is not a resident assessed as requiring care.

52. The Bill arguably makes a distinction on the basis of family status because it subjects married couples to different asset testing thresholds depending on the circumstances of their partner.

53. If both partners are in care they are able to accumulate \$150,000 in assets before being eligible to pay for their care out of assets. Married couples where only one partner is in care are only able to accumulate \$55,000 in assets before being eligible to pay for their care. However, for this group, Part 2 of Schedule 27 allows for certain assets to be exempt from the means testing regime. The spouse's house and car may be exempt in the case where the person's spouse is still living in the house and is able to use the car.

54. The treatment of the second group is quite different, as we understand it, for two reasons. On the one hand, we understand that it is intended that there be an incentive for the spouse not in care to look after the welfare of his or her partner. But if the couple's assets are to be drawn from, there is recognition this should not disturb the ability of the spouse to keep living in his or her house and use of the family car. In financial terms, the net difference in treatment between the couple who are both in care and the couple where just one is in care will vary, depending on the value of the home and car. Because the situations, and the treatment of them, are so distinct, we do not consider that this should necessarily be seen as disadvantageous treatment one way or the other. Even if it were, we consider that the reasons for a different approach to the asset threshold for the couple where one partner lives in the community would constitute adequate justification for the purposes of section 5 of the Bill of Rights Act.

55. We therefore consider that Part 1(2) of new Schedule 27 of the Bill, which establishes the thresholds that are used for determining whether a person is required to pay out of their assets, does not appear to be inconsistent with section 19(1) of the Bill of Rights Act on the grounds of family status.

Exempt Assets

56. A second issue of potential "family status" discrimination arises in the criteria for determining exempt assets. Schedule 27 Part 2 (1) states that a house may be exempt from the asset test if it is the principal residence of the person in care's dependent child. Therefore, this constitutes a prima facie inconsistency of section 19(1) of the Bill of Rights Act and section 21(1)(l)(i) which pertains to discrimination on the grounds of having responsibility for the care of children.

57. However, we consider that this aspect of schedule 27 part 2(1) is a reasonable limit and is therefore justifiable under section 5 of the Bill of Rights Act for the following reasons:

- It recognises the necessity for parents to provide for dependent children;
- As with the spouse living in the community, the provision safeguards the ability of the child to keep living in his or her home.

Sexual orientation

58. As we noted earlier, the Bill does not recognise the status of persons who are living in same-sex relationships. Persons living in such relationships are treated under the Bill as being single or unmarried. By not acknowledging the status of same-sex relationships, the Bill draws distinctions in the way that persons who are married or living in an opposite sex relationship in the nature of a marriage are treated as opposed to those living in same-sex relationships. For example, in Clause 2 of Part 1 of new Schedule 27 persons in same-sex relationships are treated differently from those in opposite-sex relationships where one person is in care and the other living in the community. Persons living in same-sex relationships are subject to one threshold and those in opposite-sex relationships to another.

59. A number of these provisions financially advantage persons living in same-sex relationships because their assets are not taken into consideration when conducting the means test as to assets and income. These provisions include:

- New section 146(2) and new section 147(3) of the Bill which state that the assets and income respectively of a person's spouse may be taken into account;
- Provisions in Schedule 27, Parts 2 and 3 that calculate the assets and income of an opposite of an opposite sex partner, as those of the person being means tested.

60. The Bill also disadvantages persons living in same-sex relationships because their relationship status is not recognised. For example, in the transitional arrangements a person aged between 50 and 64 years who is assessed as needing long-term care but living in a same-sex relationship is not able to have that relationship recognised and will be subject to the means testing regime according to the single person rate. The person will therefore be

means tested in circumstances where the person in an opposite sex relationship would not.

61. Similarly under the transitional arrangements, the thresholds for single persons (including persons in same sex relationships) are less than those for opposite-sex couples (new Clause 1 of Part 1 of new Schedule 27).

62. Thus, under the Bill, the disadvantage on grounds of sexual orientation in some cases is sustained by persons in opposite sex relationships, in other cases, by persons in same sex relationships.

63. We consider that the failure to recognise the status of same-sex relationships and the arbitrary manner in which it treats persons in same-sex relationships appears to be *prima facie* inconsistent with section 19(1) of the Bill of Rights Act on the grounds of sexual orientation.

64. We have therefore gone on to consider whether the *prima facie* inconsistency with section 19(1) can be justified.

65. The Ministry of Health has advised in relation to this issue that:

"Inclusive definitions with respect to marital status will not take effect immediately under the proposals for the reason of internal consistency with other provisions in the Social Security Act 1964. The Bill confirms the intention to include same sex couples when similar provisions come into effect in the Social Security Act. This will maintain internal consistency with all other provisions in the Social Security Act, as all provisions broadening marital status to include same sex couples will come into effect at the same time."

66. We understand that the government is currently considering rationalisation of the treatment of same-sex couples in social security legislation and has agreed that generally same-sex couples should be treated in the same way as opposite-sex couples. However, as we advised in relation to the Social Security (Residence of Spouses) Amendment Bill 2001, we do not consider that the different treatment of same-sex couples is justified in terms of section 5 of the Bill of Rights Act, on the basis of proposals for reform that have yet to be realised.

67. We therefore conclude that the *prima facie* inconsistency with section 19(1) of the Bill of Rights Act on the ground of sexual orientation cannot be justified in terms of section 5. We note that the sexual orientation discrimination contained in the Bill could be remedied by a straightforward drafting amendment.

CONCLUSION

68. The primary purpose of the Bill is to implement the progressive removal of asset testing. It has a remedial objective, to relieve persons in long-term residential care from the burden of dissipating their assets. The government has assessed that the best way to achieve this objective with resource

constraints is by way of a progressive regime. The rules that apply during this phasing out process have raised prima facie issues of discrimination in two areas:

- The short transition stage from enactment to 1 July 2005; and
- The period where limited asset testing will remain for over 65 year olds but will progressively be ameliorated.

69. We have examined both these areas and consider that both are reasonable means for government to implement its policy of removing asset testing. Therefore, although we consider that the Bill appears to be prima facie inconsistent with section 19(1) of the Bill of Rights Act on the grounds of age, marital status and family status, these provisions of the Bill appear to be justifiable in terms of section 5 of the Bill of Rights Act. The Bill therefore does not appear to be inconsistent with section 19(1) of the Bill of Rights Act on these grounds.

70. However, we do not consider that the different treatment contained in this Bill on the grounds of sexual orientation can be justified in terms of section 5 of the Bill of Rights Act. Accordingly, we consider that the Bill is inconsistent with section 19(1) of the Bill of Rights Act.

71. We recommend that, as soon as practicable, you bring the Bill to the attention of the House of Representative, pursuant to section 7 of the Bill of Rights Act. A draft section 7 report will be drafted for your consideration.

72. In accordance with your instructions, we attach a copy of this opinion for referral to the Minister of Justice. We also attach a copy for referral to the Minister of Health, if you agree.

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cc. Minister of Justice
Minister of Health

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Footnotes

1. There will be a minor change to the eligibility criteria for this group. The criteria will change to apply to those unmarried persons aged between 50 and 64 years who have no dependant children. The criterion "close in interest" to persons 65 years and over will be removed.
2. Moonen v Film and Literature Board of Review [2000] 2 NZLR 9.
3. The asset levels are found in new Schedule 27, Part 1 of the Bill
4. We also consider that new section 143 does not appear to be inconsistent with section 19(1) on the grounds of age essentially for the reasons set out in the section below 'Age'. Issues of prima facie inconsistency with section 19(1) on the grounds of sexual orientation are similarly dealt with in the section on sexual orientation starting at paragraph 58.
5. Gosselin v Attorney-General of Quebec; Attorney-General of Ontario et al 221 DLR (4th) 257, at 294 per McLachlin CJC
6. Law v Canada (Minister of Employment and Immigration) 170 DLR (4th) 1
7. Gosselin v Attorney-General of Quebec; Attorney-General of Ontario et al 221 DLR (4th) 257, at 295 per McLachlin CJC